APPENDIX VI

COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS

COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS.

1. **National Environmental Policy Act of 1969, as amended.** Environmental information on the project has been compiled in the draft Environmental Assessment. Comments about the proposed work were initially gathered as a result of a Scoping Letter dated 29 January 1998 sent to the public at large. The Draft EA will be coordinated with the public for 30 days by letter dated May 8, 2000. This public coordination and environmental impact assessment complies with the intent of NEPA. The process will fully comply with the Act once the Findings of No Significant Impact has been signed by the District Commander.

2. **Endangered Species Act of 1973, as amended.** Consultation with the US Fish and Wildlife Service for this project was conducted in conjunction with the preparation of the Coordination Act Report and Biological Opinion for the construction of the Alafia River Navigation Channel and Turning Basin. The USFWS provided these documents by Final CAR dated December 14, 1998. The USFWS concluded that the work would not likely jeopardize the continued existence of the manatee, if the Standard manatee protection conditions are implemented. In addition, the USFWS requested the manatee brochure be provided to the crew as a part of the observer education. The Corps re-initiated consultation with USFWS by letter dated July 5, 2000, because blasting was identified as being a component of the construction. By fax dated July 24, 2000, and by letter dated September 5, 2000, the USFWS presented the Corps with recommendations for protecting manatees while conducting blasting operations. These will be incorporated into the project. This project was fully coordinated under the Endangered Species Act; therefore, this project is in full compliance with the Act.

3. **Fish and Wildlife Coordination Act of 1958, as amended**. The Tampa Harbor - Alafia River Navigation Channel and Turning Basin project has been coordinated with the USFWS during the preparation of the Fish and Wildlife Coordination Act Report. The USFWS prepared several CARs for this project. A Draft CAR was submitted to this office in March 1997. A revised Draft was resubmitted in October 1997. A Final CAR was submitted in December 1998. Several Planning Aid Letters were submitted, the latest dated 22 September 1999. Therefore, the project is in compliance with the Act.

4. **National Historic Preservation Act of 1966, as amended (PL 89-665)**. An archival and literature review, including review of the current National Register of Historic Places listing and consultation with the Florida State Historic Preservation Officer (SHPO), has been conducted to determine if significant cultural resources are located within the area of impact for the proposed project. One potentially significant cultural resource will be affected by construction of the new Federal channel. The District has determined that placement of dredged material at CMDA-2D Wetland Creation Site, Bird Island and the ODMDS will not have an adverse effect on significant cultural resources. These areas are formerly used dredged material placement areas. Impacts to cultural resources in the Alafia River will be determined after surveys have been completed. Coordination through

Section 106 of the NHPA complies with this Act and with the Archeological and Historic Preservation Act, as amended (PL 93-291).

5. **Clean Water Act of 1972, as amended.**

5.1. Section 401. (Water Quality). A State water quality certificate is required for this project and would be obtained prior to construction. A Florida Department of Environmental Protection (DEP) Water Quality Certificate (WQC) has been issued for the maintenance dredging of the existing channel. State water quality standards will be adhered to during construction. The project will cause temporary increases in turbidity where dredging is taking place and at the disposal site. The Florida water quality regulations require that water quality standards not be violated during dredging operations. The Standards state that turbidity outside the designated mixing zone shall not exceed 29 NTU's above background. Various protective measures and monitoring programs will be conducted during construction to ensure compliance with State water quality standards. Should monitoring determine that the State turbidity standards have been exceeded, the contractor will be required to cease operations until conditions return to normal.

5.2. Section 404 (b)(1). The purpose of Section 404(b)(1) of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the waters of the United States through the control of discharges of dredged or fill material. Controls are established through restrictions placed on the discharges in Guidelines published in 40 CFR 230. A Tier I Evaluation of the dredged material was conducted (Appendix IX). Based on the probable impacts addressed in the environmental assessment, the 404(b)(1) evaluation and Inland Testing Manual requirements concerning the dredged material to be used, the proposed work would comply with the Guidelines and the intent of Section 404(b)(1) of the Clean Water Act. Final compliance would be reached when the Water Quality Certificate is obtained.

6. **Clean Air Act of 1972, as amended**. No air quality permits will be required for this project. Therefore, this Act would not be applicable.

7. **Marine Protection, Research and Sanctuaries Act**. A Tier I Evaluation of the dredged material was conducted (Appendix IX). There is no indication that the material is contaminated above what is acceptable to be placed in the ODMDS. The dredged material will be tested in accordance with the 1991 Green Book and a Section 103 Evaluation Report will be prepared and coordinated with EPA prior to placement of the dredged material in the ODMDS. The project will be in compliance with this Act prior to construction.

8. **Coastal Zone Management Act of 1972, as amended**. The project has been evaluated in accordance with Section 307 of the Coastal Zone Management Act. It has been determined that the project would have no unacceptable impacts and would be consistent with the

Florida Coastal Zone Management Plan (Appendix III). The Florida Department of Community Affairs acting as the State Clearinghouse Review has issued a Consistency Determination by letter dated September 11, 2000. Final state concurrence is issued concurrently with the issuance of the Water Quality Certification.

9. **Farmland Protection Policy Act of 1981.** No prime or unique farmland will be impacted by implementation of this project. This act is not applicable.

10. **Wild and Scenic River Act of 1968, as amended**. No designated Wild and Scenic river reaches will be affected by project related activities. This act is not applicable.

11. **Marine Mammal Protection Act of 1972, as amended**. Incorporation of the safe guards used to protect manatees during dredging and disposal operations will be implemented during construction, therefore, this project is in compliance with the Act.

12. **Estuary Protection Act of 1968.** No designated estuary will be affected by project activities. This act is not applicable.

13. **Federal Water Project Recreation Act, as amended**. There is no recreational development proposed for maintenance dredging or disposal. Therefore, this Act does not apply.

14. **Resource Conservation and Recovery Act of 1976, (PL 94-580; 7 U.S.C. 100, et seq.** This law has been determined not to apply as there are no items regulated under this act being disposed of or affected by this project.

15. **Toxic Substances Control Act of 1976, (PL 94-469; U.S.C. 2601, et seq.** This law has been determined not to apply as there are no items regulated under this act being disposed of or affected by this project.

16. **E.O. 11990, Protection of Wetlands**. Approximately 6.0 acres of mangroves located along the fringe of the channel would be impacted. This impact would be mitigated by replanting 6.0 acres of mangrove, creation of 2 inter-tidal channels, creation of a mangrove slough, eradication of 15 acres of exotic plants, and the creation of 2 reptile ponds. Therefore, there would be "No Net Loss" of wetlands. This project is in compliance with the goals of this Executive Order.

17. **E.O. 11988, Floodplain Management**. No activities associated with this project will take place within a floodplain, therefore this project is in compliance with the goals of this Executive Order.

18. **E.O. 12898, Environmental Justice.** This project has been evaluated in accordance with the subject E.O. The project would not result in adverse human health or environmental

effects. There would be no impacts on subsistence consumption of fish or wildlife from this project. Therefore, the work would comply with this E.O.

19. **Essential Fish Habitat, Magnuson-Stevens Fishery Conservation and Management Act**. The affects of the existing federal navigation project have been identified in the Environmental Assessment (Appendix IV). The effects on EFH were coordinated with the NMFS through the NEPA process. The National Marine Fisheries Service responded by letter dated July 7, 2000, stating that it did not agree with the Corps assessment of the project and recommended the following:

    - That dredged material be placed in existing, upland, contained disposal sites or in the ODMDS until the Dredged Material management Strategy is complete;
    - That a comprehensive mitigation plan be developed to compensate for adverse impacts to approximately 0.27 acres of mangrove wetlands and approximately 58 acres of shallow bay bottom habitat.

The Corps responded by interim letter dated August 4, 2000, stating that it could not accept their recommendations and a more detailed response would be forthcoming. By letter dated August 22, 2000, the Corps responded stating it could not accept all their recommendations. We plan to place the material in the ODMDS and mitigate for wetland losses. However, the Corps feels that creating wetlands and bird habitat are a better use of the dredged material in this area. To do otherwise would be contrary to the broader environmental interests and the concept of "beneficial uses of dredged material". We also feel that the quality of habitat in the navigation project and adjacent to it, with the exception of the mangrove wetlands does not require mitigation. By telephone conversation dated September 18, 2000, Rick Ruebsamen, representing NMFS, stated that the EFH compliance was complete and that NMFS would be taking no further action.

APPENDIX VII

HTRW ASSESSMENT

JULY 1999

Hazardous, Toxic and Radioactive Waste (HTRW) Assessment

ALAFIA RIVER PROJECT
Hillsborough County, Florida

U.S. Army Corps
of Engineers
Jacksonville District

TABLE OF CONTENTS

1.1 SUMMARY

A Hazardous, Toxic and Radiological Waste (HTRW) site assessment was conducted on the Alafia River. The hazardous and toxic waste evaluation revealed that the Alafia River is used for navigation. The property surrounding the river consists of industrial port activities and recreational/residential activities. The site appears to be free of hazardous and toxic waste concerns relating to this project. The hazardous and toxic waste (HTRW) review of the proposed sites did not reveal evidence of HTRW contamination.

1.2 INTRODUCTION

1.2.1 Purpose

The goal of this site investigation is to identify recognized environmental conditions. The investigation indicates the presence or likely presence of any hazardous substances or petroleum products. The assessment attempts to reveal conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products on the properties or into the ground, groundwater, or surface water of the properties that would have a direct effect on the Alafia River.

1.2.2 Special Terms and Conditions

The recognized environmental conditions that were considered throughout this investigation included hazardous substances or petroleum products in compliance with local and State regulations. The term, environmental contamination is not intended to include conditions that generally do not present a material risk of harm to public health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies.

1.2.3 Limitations and Exceptions of Assessment

This Phase I Environmental Site Assessment is composed of the following five components: 1) Records Review, 2) Aerial Photography Study, 3) Site Reconnaissance, 4) Interviews, 5) Reports. The record review, aerial

Improvements on the Site (including Heating and cooling system, sewage disposal, Potable water Source)

The structures along the river that are of primary concern to this project are outlined on the maps found in appendix A1 & A2. As depicted on the map, the potential concerns consist of the underground storage tanks (UST's) that line U.S. Route 41 to the immediate south of the river (See appendix A2). These UST's pose a relatively low contamination risk. State and Federal regulations require all UST's to be upgraded or removed by 1999.

The four proposed Dredged Material Disposal Sites are located in remote areas as shown in figures A8, and A9. There are no structures, roads or other improvements located on the proposed disposal sites. The project area consists of navigation channels. The aerial photography shows the proposed dredged material disposal areas. See aerial photographs in appendix A6, and A7.

1.3.5 Information (if any) Reported by Auditor Regarding Environmental Liens or Specialized Knowledge or Experience

No specialized knowledge is available for these sites.

1.3.6 Current Uses of the Property

The project area is used as a navigation channel, for industrial port activities, and for residential/recreational use. The aerial photographs in appendix A3, A4 and A5 show the typical features of the area.

1.3.7 Past Uses of the Property (to the extent identified)

The proposed project area was used as a navigation channel for more than forty years.

1.3.8 Current and Past Uses of Adjoining Properties (to the extent identified)

1.4.4 Additional Record Sources

None

1.5 INFORMATION FROM SITE RECONNAISSANCE AND INTERVIEWS

1.5.1 Hazardous Substances in Connection with Identified Uses (including storage, handling, disposal)

There is no evidence that the adjacent properties of the Alafia River have contaminated the project area. The hazardous and/or toxic waste (HTRW) database plotted in appendix A2 shows that potential contaminants are located in close vicinity of the project area. Although the potential contamination sources exist, there is no evidence that the channel was contaminated by specific sources. Our dredged sediment analysis program has shown that large harbors occasionally may retain contaminates over many years, due to stormwater runoff.

1.5.2 Hazardous Substance Containers and Unidentified Substance Containers (including storage, handling, disposal)

The hazardous substance containers of primary interest to the Alafia River are the leaking underground storage tanks to the south of the river and the one aboveground storage tank to the north of the river. The underground storage tanks are located at gas stations along U.S. Route 41. These storage tanks, although a primary concern, should not pose a serious threat to the project area because all of these tanks must by upgraded by 1999 and associated contamination must be remediated.

1.5.3 Storage Tanks (including contents and

contaminated by specific sources. In summary, the proposed project area has a low probability of hazardous or toxic waste contamination.

PRELIMINARY ASSESSMENT SCREENING (PAS)
STATEMENT OF FINDINGS

REAL PROPERTY TRANSACTION: Preliminary site assessments were conducted on the Alafia River project area.

SUMMARY:
COMPREHENSIVE RECORD SEARCH: Several database searches were performed and the results were plotted to the proposed area project maps. Appendix A2 shows these potential contaminated sites. The following databases were included in the review: National and State Priority Listed Sites, landfills, Federal and State Conservation Environmental Restoration Comprehensive Liability Act (CERCLA) listed sites, listed violators, underground storage tanks (UST's) and leaking underground storage tanks (LUST), Treatment Storage and Disposal facilities (TSD's), listed spills, Small (SQG) and Large Quantity Generators (LQG), Transporters and aboveground storage tanks (AST's). Appendix A2 shows that the project area is free of potential hazardous and toxic contamination sources.

SITE INVESTIGATION: Mr. Peter Besrutschko, Jacksonville District, US Army Corps of Engineers (Corps) performed the site investigation in May 1999. Access to the site is limited. The site investigation revealed no evidence of hazardous and/or toxic materials release. The adjacent properties were found to be diverse congestion of light industry and heavy industry some re-growth vegetation. Our dredge maintenance sediment analysis history has shown that large harbors occasionally become contaminated over many years, due to stormwater runoff.

In summary, the proposed dredged material disposal sites have a low probability of hazardous or toxic waste contamination.

Signed: _____ Date: 6 Aug 99

Prepared by: P. H. Besrutschko
Environmental Engineer, US Army Corps of Engineers

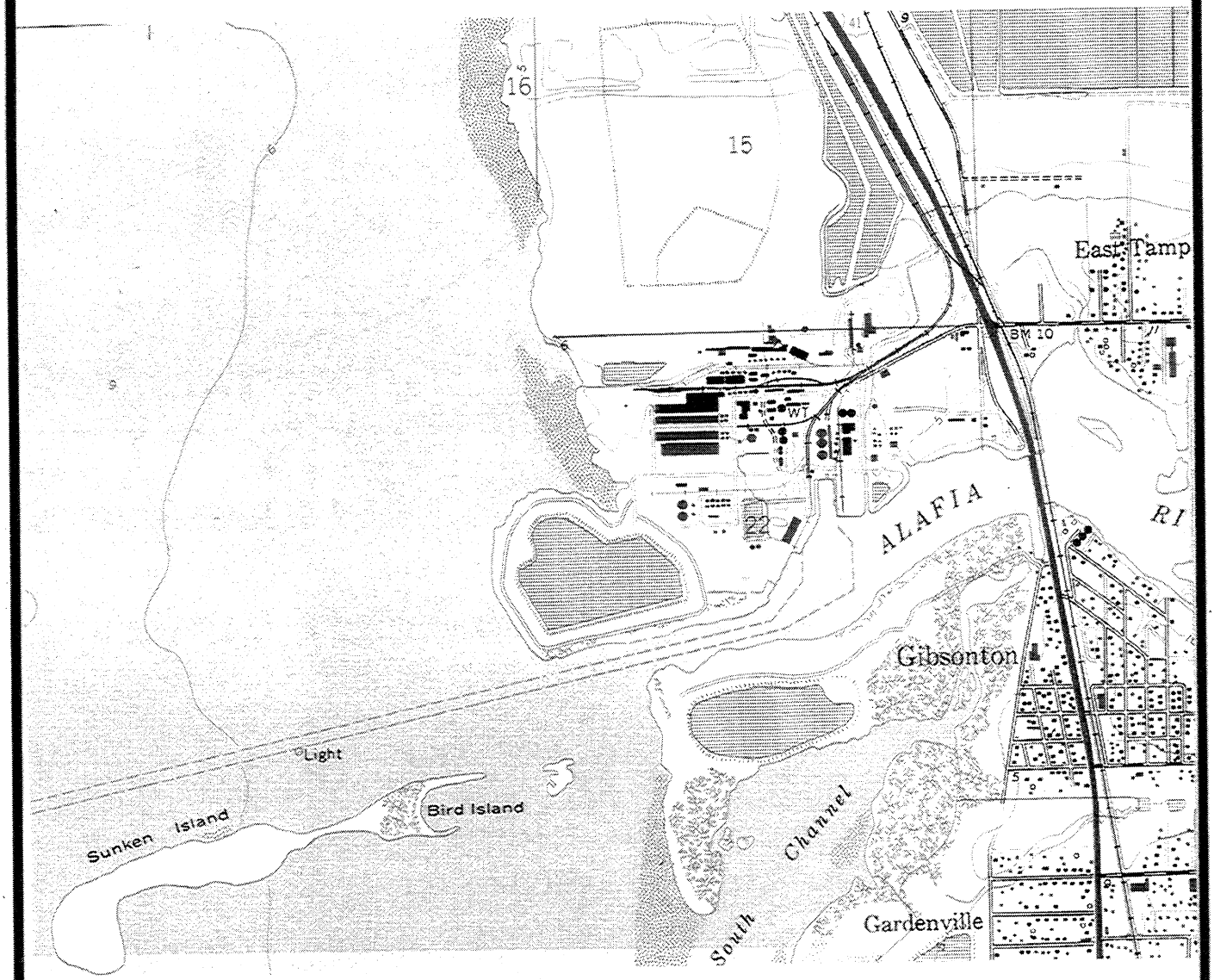
Signed: _____ Date: 9 Aug 99

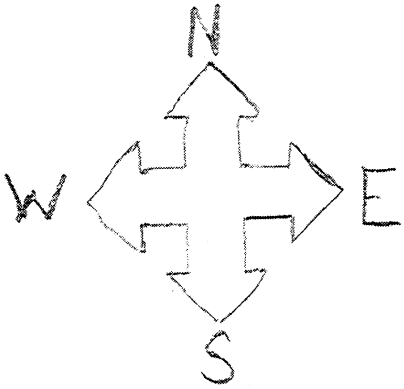
Reviewed by: J. J. McAdams, P.E.
Chief, Env. Quality Section, US Army Corps of Engineers

Signed: _____ Date: 9 Aug 99

Approved by: H.K. Smith
Chief, Env. Resources Branch, US Army Corps of Engineers

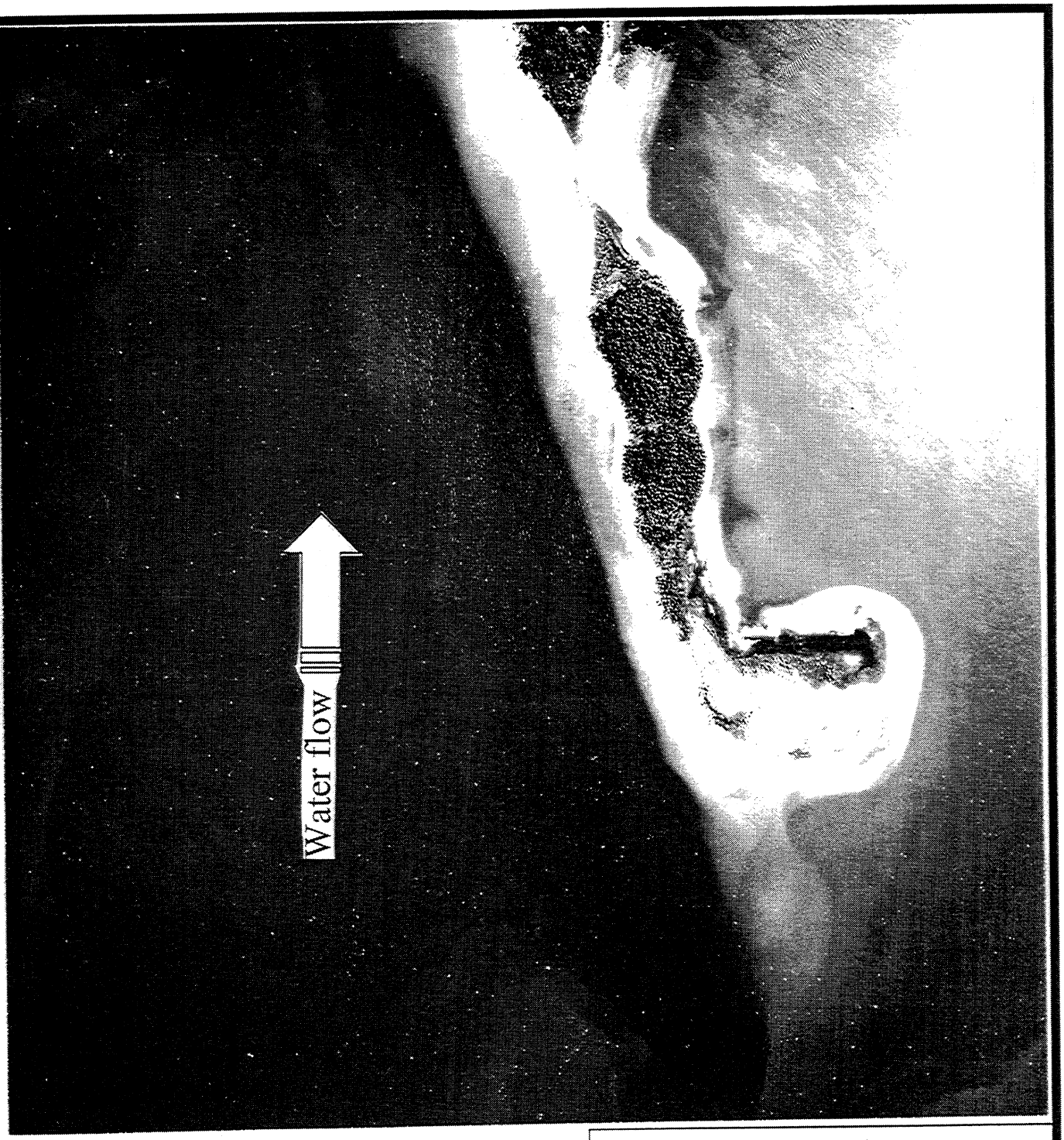
1.7 APPENDICES

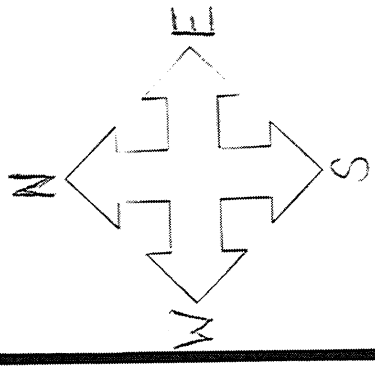




US Army Corps of Engineers
Jacksonville District

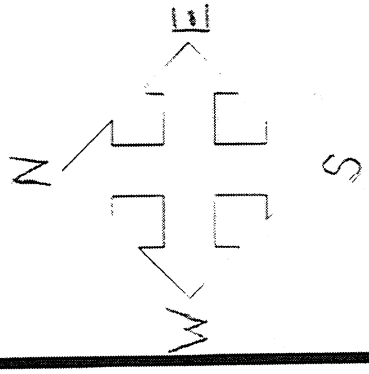
HTRW Assessment
Quadrangle
Alafia River
Figure 1
Hillsborough County, Florida





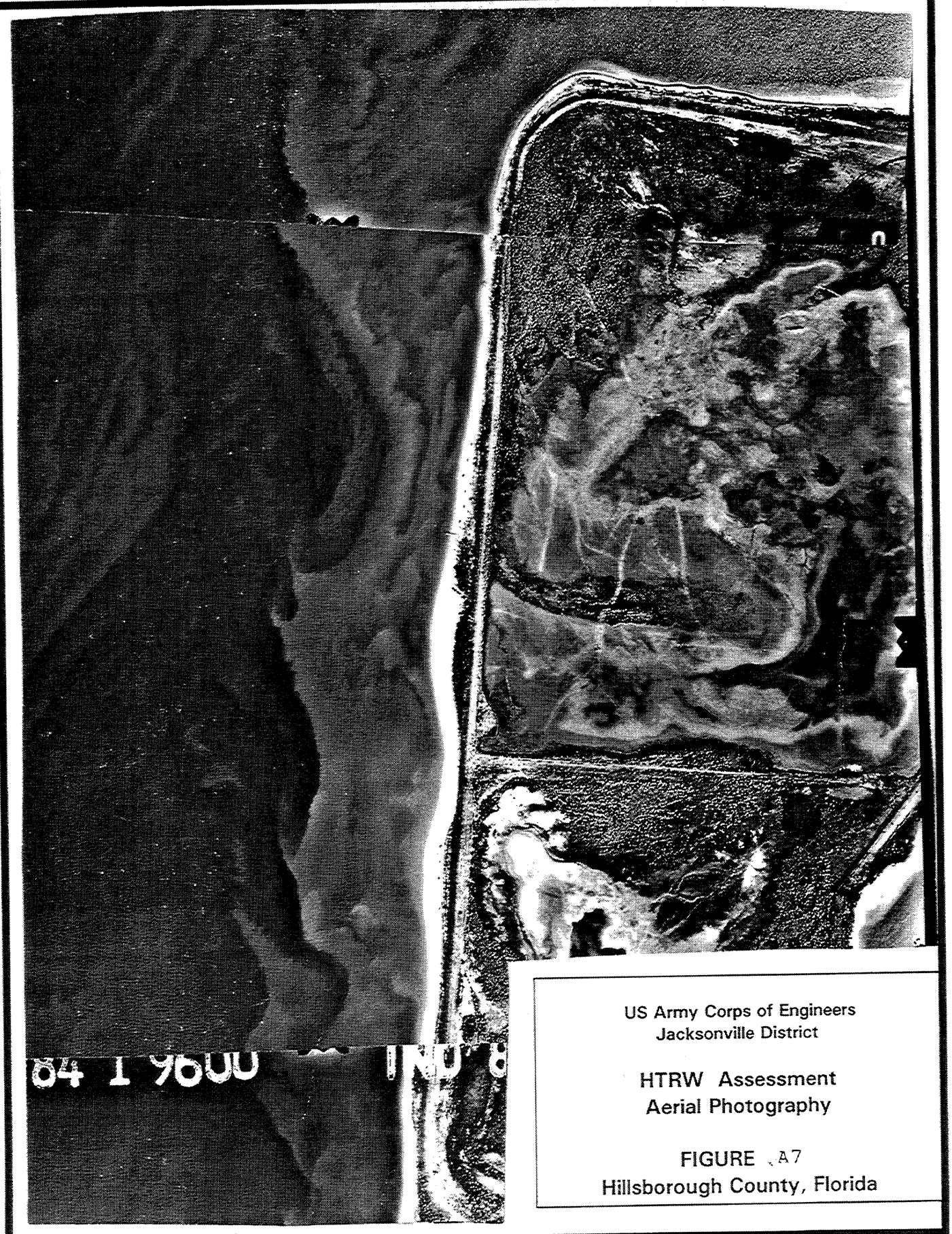
US Army Corps of Engineers
Jacksonville District

HTRW Assessment
Alafia River(mouth)
Photograph Location 1
Hillsborough County, Florida



US Army Corps of Engineers
Jacksonville District

HTRW Assessment
Alafia River(inland)
Photograph Location 3
Hillsborough County, Florida



US Army Corps of Engineers
Jacksonville District

HTRW Assessment
Aerial Photography

FIGURE A7
Hillsborough County, Florida

APPENDIX VIII

MITIGATION PLAN

MITIGATION PLAN

1. After the navigation channel is constructed and the slopes of the turning basin and channel have stabilized the mitigation plan would be implemented.

2. Two inter-tidal channels would be excavated from the turning basin to the existing channel within the restoration area to increase flushing of the area. The channels would be approximately 50-feet wide and have a depth of approximately the same as the existing channel. The newly exposed banks would be planted with mangroves to expedite the re-colonization process. Two road box culverts would be placed over these channels to afford vehicle access to the disposal areas.

3. An inter-tidal mangrove slough would also be excavated connecting to the inter-tidal channel measuring 50 feet in width. The bottom elevation would be approximately the same depth as the existing channel.

4. Exotic plant species such as Brazilian pepper would be eradicated from the area south of the river between the river and the upland disposal area.

5. Two small ponds would be excavated in the upland areas adjacent to the project to replace the existing ponds used for reptile habitat. They measure about 50-feet in diameter.

6. A large mangrove area would be constructed along the south bank of the river. A 6-acre area would be scrapped down to the appropriate elevation for mangrove propagation. Mangrove would be planted within this zone.

7. Excess construction material would be placed in the upland disposal area.

APPENDIX IX

TIER I EVALUATION

ALAFIA HARBOR - 2000 TIER I EVALUATION OF DREDGED MATERIAL FOR OCEAN DISPOSAL

Introduction

The 2000 evaluation of Alafia Harbor will consider dredged material (DM) from maintenance and new work. The project proposes to use the Tampa Ocean Dredged Material Disposal Site (ODMDS) for disposal of dredged material.

Project Description

The Corps proposes to deepen and widen Alafia Harbor and the entrance channel and maintain the harbor at the new depth of 42 feet plus 2 feet of advance maintenance. Dredged material from maintenance is predominantly silty sand. Dredged material from new work consists of silty sand, silts, clays and rock. The existing harbor and entrance channel is 200′ wide with an authorized depth of 32′(mlw) with a 700′ by 1200′ turning basin 32′ feet deep. It is proposed to increase the turning basin to 1200′ in diameter with a depth of 42′ and the entrance channel to 250′ wide with a depth of 42′.

Geography and Surrounding Area

The major geographical features are a large, rather low energy estuary with a constricted opening to the Gulf of Mexico. Runoff of surface water and sediment is largely restricted to the eastern margin of the bay where the Hillsborough, Palm, Alafia, Little Manatee and Manatee Rivers enter the bay. Tides in the entire area are in the microtidal range with spring tides generally less than .8 meters. Such conditions do not result in tidal flats but salt marshes and mangrove swamps are widespread. The size of Tampa Bay and its single constricted entrance produces a large tidal prism with swift currents at the entrance to the bay.

The shoreline of the Tampa Bay estuary spans a complete spectrum from the pristine areas of southern Hillsborough County such as Cockroach Bay to totally developed industrial areas along the northern part of Hillsborough Bay. Virtually all types of development are included: municipal utilities, residential, military, heavy industry including deep draft harbors, and recreational areas. The distribution is uneven in that most development is concentrated along the Pinellas County shore and the interbay peninsula and the related areas of metropolitan

Tampa. The northern end of Old Tampa Bay and much of the shore in southeastern Hillsborough County is relatively undeveloped but with locally intense development in some areas. Included in the latter would be Alafia Harbor, the port of Manatee and the Big Bend power station. Seawalls, groins, breakwaters and other coastal structures are prevalent and typically are associated with areas of development.

With the exception of the channel system and anchorages, most of Tampa Bay is shallow averaging 12 feet deep.

Pollution Sources

Alafia Harbor is a major fertilizer terminal handling large volumes of phosphate rock, phosphate fertilizers, ammonia and sulfur but the port area is not otherwise heavily developed. The following sources were consulted for information on spills of hazardous materials in Alafia Harbor: the CERCLIS database, the Toxic Release Inventory System (TRIS), and the Emergency Response Notification System (ERNS). The data obtained from CERCSIS, TRIS and ERNS sources indicated that no spills of hazardous material had occurred in Alafia Harbor within the past 13 years. There are no facilities for large-scale storage or handling of fuel oil. Storage of hazardous and toxic materials (HTW) is primarily confined to fertilizers, phosphoric and sulfuric acid, and minor amounts of petroleum product including #2 fuel oil, diesel fuel, gasoline and lubricants. All of the HTW confinement areas are sufficient to contain any spills. Alafia Harbor is part of Tampa Bay and is located at the mouth of the Alafia River. The Harbor is hydraulically linked to the Gulf of Mexico through the Alafia River and Tampa Bay. The Alafia River is not heavily developed. The major potential sources of contamination associated with the Alafia River are phosphate rock mines and tailings ponds located along the river.

Previous Testing

This project has not been tested for ocean disposal in accordance with **Evaluation of Dredged Material Proposed for Ocean Disposal - Testing Manual**, also known as the "Green Book", and the **EPA Region IV/COE South Atlantic Division Regional Implementation Manual** (RIM).

ODMDS

The disposal site is the Tampa Harbor Ocean Dredged Material Disposal Site (ODMDS). This site is located in the Gulf of

Mexico approximately 7.6 miles southwest of the entrance marker for the Tampa Harbor Federal Channel. The depth at the center is approximately 50 feet. The site is a square two nautical miles on a side. A map showing the ODMDS can be found on page 10 of the Final Environmental Impact Statement for the Designation of an Ocean Dredged Material Disposal Site Located Offshore Tampa, Florida (FEIS). The U. S. Environmental Protection Agency has designated the site for the disposal of dredged material.

Samples of composite bottom sediment taken from the disposal site were described as very fine sand and coarse silt (see FEIS).

Bottom sediments within the project area are very similar to each other and to the reference station samples. Samples are variously described as silty sand, silts and rock.

Conclusion

The material from this area of Alafia Harbor is probably suitable for ocean disposal. This conclusion is based on the following: No spills of hazardous materials that would render the dredged material unsuitable for ocean disposal have occurred since 1987 and no active CERCLA sites were found in the vicinity of the port. Although industrial facilities exist in the area that may have a potential for release of toxic materials the materials most likely to be discharged are phosphoric and sulfuric acids, phosphate fertilizers, ammonia, sulfur and waste products from processing phosphate rock. Spills of these materials may have significant short-term impacts on the immediate environment but would not cause a long-term degradation of the sediments severe enough to eliminate ocean disposal as an option. In addition deepening of the harbor in 1995 and subsequent maintenance dredging in 2000 would have removed any contaminated sediment that may have accumulated.

Recommended Additional Evaluation

As this project has not been tested for ocean disposal evaluation, a new evaluation in accordance with **Evaluation of Dredged Material Proposed for Ocean Disposal - Testing Manual**, also known as the "Green Book", and the **EPA Region IV/COE South Atlantic Division Regional Implementation Manual** (RIM) is needed. Contaminates of concern include heavy metals associated with phosphate mining and processing and pesticides from agricultural runoff.

APPENDIX F

SPONSOR CORRESPONDENCE

CARGILL
FERTILIZER, INC.

H. GRAY GORDON
VICE PRESIDENT
COMMUNITY & INDUSTRIAL RELATIONS

8813 Highway 41 South - Riverview, Florida 33569 - Telephone 813-677-9111 - TWX 810-876-0648 - Telex 52666 - FAX 813-671-6146

TO: Tim Murphy
U.S. Army Corps of Engineers
Project Manager
FROM: Gray Gordon
DATE: June 23, 1998
RE: Tampa Harbor Project
Alafia River Channel
Federal Project - Jacksonville District

In accordance with our meeting of May 27, 1998 and your subsequent briefing, it is Cargill's understanding that the U.S. Army Corps of Engineers has determined that there were six possible alternatives regarding dredge improvements to the Tampa Harbor Alafia River Channel.

These dredge improvements would allow vessels with a draft of 39 feet to utilize the Alafia River Channel. The six dredge alternatives are basically divided into two areas of the channel, one being an "inner basin" and the other being an "outer basin". We understand that dredging the inner basin means dredging the entrance off the main channel, the length of the channel, and the widening of the currently-existing turning basin. This inner basin project will basically deepen and widen some of our currently-existing channel and dock area. The outer basin would include the entrance off the main channel, the length of the channel only up to an area just west of our current plant property, and an entirely new dock area extending into a small portion of Tampa Bay.

Following our understanding of these alternatives and your presentation at several community meetings regarding these alternatives, a variety of local government and private environmental agencies have expressed concern regarding the outer basin alternative. They have indicated it would disturb an area in the bay currently not utilized as part of the Alafia Channel or turning basin.

Cargill has met with some of these groups to further hear their concerns. Based on these meetings and continued expression of environmental concern, Cargill hereby requests that the U.S. Army Corps of Engineers give preference to the inner basin alternative and, if possible, only consider this option for improvement to the Tampa Harbor Alafia Channel.

I would be happy to meet with you again personally to clarify our request.

Regards,

Gray Gordon